IN THE SUPREME COURT OF THE STATE OF DELAWARE

PATRICK F. CROLL,	§	
	§	No. 492, 2010
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	Cr. ID Nos. 0801001836
Plaintiff Below,	§	0803007023
Appellee.	§	

Submitted: November 12, 2010
Decided: February 9, 2011

Before **STEELE,** Chief Justice, **HOLLAND** and **BERGER,** Justices.

O R D E R

This 9th day of February 2011, upon consideration of the briefs on appeal and the Superior Court record, it appears to the Court that:

(1) The appellant, Patrick F. Croll, filed this appeal from the Superior Court's July 12, 2010 order denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. We have determined that there is no merit to the appeal. Accordingly, we affirm.

(2) The record reflects that, on February 19, 2008, Croll was indicted on charges of Aggravated Menacing, Assault in the Second Degree, Possession of a Deadly Weapon During the Commission of a Felony (PDWDCF), Reckless Endangerment in the First Degree, Unlawful

Imprisonment in the Second Degree, Assault in the Third Degree, Terroristic Threatening, Offensive Touching, Endangering the Welfare of a Child, Malicious Interference with Emergency Communications, and Misdemeanor Criminal Mischief.[1] Thereafter, on March 13, 2008, Croll was charged in a separate indictment with Unlawful Sexual Contact in the First Degree and Offensive Touching.[2]

(3) On June 26, 2008, Croll pled guilty to charges of Assault in the Second Degree, Aggravating Menacing, PDWDCF, Unlawful Sexual Contact in the Second Degree and Endangering the Welfare of a Child.[3] The State entered a *nolle prosequi* on the remaining counts in the two indictments, plus an additional charge of Noncompliance with Conditions of Bond.[4]

(4) On December 5, 2008, Croll, through counsel, moved to withdraw his guilty plea. The motion was denied on February 6, 2009, the same day the Superior Court sentenced Croll to thirty-three years at Level V, suspended after nineteen years for decreasing levels of supervision. Thereafter, Croll's appeal to this Court was dismissed as untimely.[5]

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[1] *State v. Croll*, Del. Super., Cr. ID No. 0801001836.
[2] *State v. Croll*, Del. Super., Cr. ID No. 0803007023.
[3] With the agreement of the Superior Court and defense counsel, the State at sentencing entered a *nolle prosequi* on the charge of Assault in the Second Degree.
[4] *State v. Croll*, Del. Super., Cr. ID No. 0802011740.
[5] *Croll v. State*, 2009 WL 1042172 (Del. Supr.). The record reflects that Croll filed the

(5) In this appeal from the Superior Court's denial of his motion for postconviction relief, Croll claims, as he did in his postconviction motion, that the Superior Court's guilty plea colloquy was defective and that his defense counsel was ineffective, both of which rendered his guilty plea involuntary. The Court has carefully considered the parties' positions on appeal and the Superior Court record, including defense counsel's affidavit responding to Croll's allegations of ineffective assistance of counsel.

(6) Contrary to Croll's assertions on appeal, it appears from the record that Croll's guilty plea was entered knowingly and voluntarily. The transcript of the guilty plea colloquy reflects that Croll discussed the plea with his defense counsel prior to the proceeding and was questioned by the judge regarding his understanding of the consequences of the plea. The record further reflects that Croll signed the Truth-in-Sentencing Guilty Plea form listing the rights he was waiving, and that he received a clear benefit by pleading guilty.

(7) In the absence of clear and convincing evidence to the contrary, Croll is bound by the representations he made during his plea colloquy.[6] Croll has presented no evidence, and the record does not reflect, that, but for

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appeal *pro se* and did not respond to the Clerk's notice to show cause.

[6] *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

his defense counsel's alleged errors, he would not have pleaded guilty but would have insisted on proceeding to trial.[7]

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

[7] *Albury v. State*, 551 A.2d 53, 59-60 (Del. 1988).